

JUDGE'S COPY
IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BRADY L. DAVIS,

Plaintiff

v.

FOX, et al.,

Defendants

No. 1:CV-00-0490

(Judge Rambo)

(Jury Trial Demanded)

FILED

AUG 2 2000

**DEPT. OF CORRECTIONS
HARRISBURG, PA. DEPUTY CLERK**

**BRIEF IN SUPPORT OF
DEFENDANTS' MOTION PURSUANT TO FED.R.CIV.P. 30(a)
FOR LEAVE TO DEPOSE A PERSON CONFINED IN PRISON**

A. Nature of the Action and Parties

This is a civil rights action brought pursuant to 42 U.S.C. §1983 ("Section 1983") seeking monetary damages and declaratory and injunctive relief.

Plaintiff Brady L. Davis is a prisoner confined at the State Correctional Institution at Coal Township. Defendants are Pennsylvania Department of Corrections employees Officer Fox, Officer Zielinski, Officer Henning, Hearing Examiner Breon, Hearing Examiner Maresca, K. Tripp, Kandis Dascani, Jack Sommers, Michael Corbacio, Unit Manager Grover, Superintendent Gillis, Chief Hearing Examiner Robert S. Bitner.

B. Relevant Procedural History

Plaintiff filed his complaint and defendants have answered. Defendants have sent out written discovery. Defendants have moved to depose a prisoner. This is the brief in support of that motion.

C. Facts

The complaint in this case alleges that defendants have falsified misconducts in violation of plaintiff's due process rights as well as various other claims regarding his treatment while incarcerated.

QUESTION PRESENTED

SHOULD THE COURT PERMIT DEFENDANTS TO DEPOSE DAVIS?

ARGUMENT

THE COURT SHOULD PERMIT DEFENDANTS TO DEPOSE DAVIS.

Ordinarily, court approval is not required for the taking of the testimony of any person upon oral examination. However, Rule 30(a) of the Federal Rules of Civil Procedure provides that "[t]he deposition of a person confined in prison may be taken only by leave of court on such terms as the court prescribes." Fed.R.Civ.P. 30(a).

The deposition of the parties and key witnesses are routinely taken in most civil actions in order to explore the allegations of the complaint, to crystalize the claims being pressed, and to prepare for any trial in the matter. The deposition of the plaintiff will serve these various purposes.

As the contents of the complaint reflect, Davis would appear to possess information central to the issues being litigated in this case. His examination is therefore important to this matter. In view of this, defendants respectfully request that the Court permit his oral deposition.

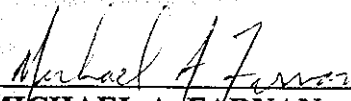
CONCLUSION

For the foregoing reasons, the defendants should be granted leave to depose the plaintiff.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

BY:


MICHAEL A. FARNAN
Deputy Attorney General

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Date: August 1, 2000

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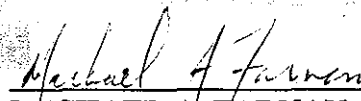
(Judge Rambo)

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CERTIFICATE OF SERVICE

AND NOW, this 31st day of July, 2000, I, MICHAEL A. FARNAN, Deputy Attorney General, counsel for defendants in the above-captioned action, hereby certify that on this day I served the foregoing **Brief in Support of Defendants' Motion Pursuant to Fed.R.Civ.P. 30(a) for Leave to Depose a Person Confined in Prison** by causing a copy of it to be deposited in the United States mail, postage prepaid, at Harrisburg, Pennsylvania, addressed to the following:

Brady L. Davis, BX-3685
SCI-Coal Township
1 Kelley Drive
Coal Township, PA 17866


MICHAEL A. FARNAN
Deputy Attorney General

DATE: August 2, 2000